IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

FIRST APPEAL NO.120 OF 1992 .

The State of Maharashtra : Appellants.

versus

Dagadu Rustom Kashid & ors. : Respondents.

Mr.B.R.Patil, Acting Government Pleader for the appellants.

None for the respondents.

CORAM : D.G.DESHPANDE,J.

DATED : 11th APRIL 2005.

ORAL ORDER

1. Heard Mr.Patil, Acting Government Pleader for the State. The respondents are served. Nobody is present for them. This appeal is filed by the State challenging the order of the Joint Civil Judge, Sr.Division, Solapur dated 28th January 1991 in a Land Reference.

2. 1 Hector and 60 Acres land of the claimants/respondents was acquired by the State. The Special Land Acquisition Officer divided this land into four categories and fixed different compensation i.e. Rs.5000/- for good jirayat land; Rs.3000/- for medium jirayat land; Rs.1500/- for inferior quality jirayat land and Rs.6000/- for bagayat land. Being aggrieved, the claimants referred a Reference and claimed enhancement of compensation. The Reference Court awarded Rs.5000/- per acre for the acquired land; Rs.1000 for damages for well and Rs.2000/- as damages caused to the remaining land because the claimants could not use the water from the canal. It is this order that is challenged in the present appeal by the State.

3. The Reference Court was perfectly justified in holding that if only 1 hector 60 acres of land from Gat No.12 was acquired, then the SLAO was not at all justified in dividing one Gat number into four to five parts like jirayat, medium jirayat, inferior jirayat, superior jirayat, permanent bagayat and seasonal bagayat. Further the Reference Court held that if the

claimants had sold the land in market, they would not have been able to classified in five such categories. The sale instance proved by the claimants were about Rs.7,000/- to Rs.8,000/- per acre. But the SLAO has given only Rs.2,000/- to Rs.3,000/- per acre. Therefore, in the circumstances and looking to the facts that there was a well, the Reference Court awarded Rs.5,000/- per acre and further compensation for well and the damages. There is no illegality in the said judgment. The reasoning given by the Reference Court is sound and proper. Therefore, no interference is called for. The appeal is dismissed. No order as to costs.

[D.G.DESHPANDE]

11/04/2005 JUDGE.